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10/671,003	09/25/2003	Pertti Kontio	944-005.020	4539
4955 7590 12/12/2007 WARE FRESSOLA VAN DER SLUYS & ADOLPHSON, LLP BRADFORD GREEN, BUILDING 5 755 MAIN STREET, P O BOX 224 MONROE, CT 06468			EXAMINER ROSWELL, MICHAEL	
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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/671,003
Filing Date: September 25, 2003
Appellant(s): KONTIO, PERTTI

Kenneth Q. Lao
Reg. No. 40,061
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 20 September 2007 appealing from the Office action mailed 17 July 2007.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,664,991	Chew et al.	12-2003
5,995,101	Clark et al.	11-1999

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3-7, 9-13 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,664,991 to Chew et al. (hereinafter Chew) and U.S. Patent No. 5,995,101 to Clark et al. (hereinafter Clark).

Referring to claims 1, 7, and 13, Chew teaches a series of operational steps expressible in computer codes for an electronic device capable of carrying out commands for a method of interacting with an icon displayed on a touch screen in an electronic device (i.e. hand-held computing device; col. 1, lines 27-30), the electronic device capable of carrying a command (input function) and further capable of providing a message (i.e. context menu or tool tip) associated with the command (col. 3, lines 33-67), wherein the input function is displayed at a designated area (designated coordinates; col. 3, lines 41-44) of the screen so as to allow a user to interact with the input function by using a physical object (stylus), said method comprising the steps of:

contacting the screen at the designated area by the physical object (press); and

keeping the physical object at the designated area longer than a selected time to cause the electronic device to provide the message (and hold gesture). See col. 1, lines 56 – col. 2, line 9.

Chew also describes that the user may remove the stylus before the selected time has expired, such that the context menu is not displayed, and that this stylus up event is dispatched

to the parent application. See col. 7, lines 1-8. Chew describes that tapping (i.e. stylus down followed by stylus up event) may cause selection of an entry.

Chew does not explicitly mention that the input function is a command symbolized by an icon or that the stylus up event before the expiration of the selected time causes the command to be executed.

However, Clark teaches that tool tips are commonly associated with icons and that when a user selects the icon with a pointing device, the command associated with the icon is carried out. See col. 1, lines 10-40.

It would have been obvious to one of ordinary skill in the art to provide the executable icons of Clark within the hand-held computing device of Chew such that icons represent executable input functions in Chew, in order to represent input functions with graphical images as supported in Clark.

Furthermore, Chew and Clark teach removing the physical object from the screen after the message is displayed to cause the electronic device to carry out the command (i.e. Clark teaches selecting the icon at any time invokes the associated function; col. 1, lines 26-28), or

moving the physical object off the desired area while keeping the physical object on the screen after displaying the message to end the message, as Chew teaches at the most basic level the use of gestures for performing commands related to a context menu (col. 1, lines 61-65). Chew teaches at col. 4, lines 7-9 that a context menu may be dismissed by tapping a stylus outside of the context menu in one embodiment of the claims. However, as Chew also teaches a "move" gesture wherein the user drags the stylus outside of the context menu (col. 6, lines 48-51), it would have been obvious to utilize this "move" gesture with any command related to a context menu, such as the closing of the context menu.

Referring to claims 3, 9, and 15, Chew and Clark teach removing the physical object from the screen after ending the display of the message (i.e. stylus up event); or

moving the physical object to a further designated area after ending the display of the message for causing the electronic device to provide a message associated with the further designated area (i.e. each hold over an icon causes the associated context menu or tool tip to be displayed). See Chew at Fig. 3, 300, which shows other selectable areas, and Clark at Fig. 1, which shows several icons with related tool tips.

Referring to claims 4 and 10, Chew and Clark teach removing the physical object from the screen after moving the further object to a further designated area to cause the electronic device to carry out a command associated with the further designated area (i.e. Clark teaches selecting an icon at any time invokes the associated function; col. 1, lines 26-28).

Referring to claims 5-6 and 11, the provided message of Chew and Clark comprises a text message (text bubble) that is displayed on the screen (i.e. Chew at Fig. 4, 400).

Referring to claim 12, Chew does not explicitly teach that the message may be in an audible form from an audio device. However, Clark teaches that tool tips may be presented as audio (col. 2, lines 1-9). It would have been obvious to one of ordinary skill in the art to provide the tool tip of Chew in an audible format as described by Clark in order to tailor the tool tip to the user's needs as supported by Clark, especially for the small screen device of Chew.

(10) Response to Argument

On page 8 of the Brief, Appellant argues that "the tool tip as disclosed in *Clark* is not compatible with the list entries 300 or 700 as disclosed in *Chew*". However, further down on page 8 Appellant cites col. 3, lines 57-67 of Chew, which states, "[i]n some embodiments, the

parent application substitutes a **tool tip** or pop-up help for the context menu" (emphasis added).

Therefore, the examiner believes Appellant's contention to be false.

Appellant argues on page 9 of the Brief, with respect to Chew, that "no command is carried out regardless of the duration of the gesture made on the entry". However, the examiner notes page 3 of the Office action states, "Clark teaches selecting the icon at any time invokes the associated function; col. 1, lines 26-28". Therefore Chew is not relied upon to teach the carrying out of commands with respect to the duration of a gesture made on the entry. As such, Appellant's argument is moot.

Appellant argues on pages 9-11 of the Brief that Chew fails to teach that "a message associated with [a] command is provided if the contact is longer than a predetermined time". Appellant further argues that the disclosed "tap-and-hold gesture" of Chew is not the same as the claimed "contacting the designated area by the physical object". The examiner respectfully disagrees. Chew teaches a list of contacts (see Fig. 3), each contact being deemed analogous to the claimed "designated area", due to the fact that the items are manipulable by the user, and such manipulation leads to the carrying out of commands. As cited in Chew, the tap-and-hold gesture "consists of pressing and holding the stylus on a selection for a system-specified length of time. If the user does not move the stylus...a context menu gesture is recognized and the application displays a context menu." In this way, the examiner contends that the tap-and-hold gesture and its resulting context menu teach at least "a message associated with [a] command is provided if the contact is longer than a predetermined time", found in step 3 of the invention.

On pages 11-12 of the Brief, Appellant argues that Chew and Clark fail to disclose a command being carried out "if the physical object is removed from the screen after the message is displayed after the physical object is placed for a predetermined time", specifically citing the need for two actions be made to carry out a function in Clark. The examiner would like to note

that Appellant's claims also require that two actions are made in order to carry out a function: the "contacting" action of step 1), and the "removing" action of steps 2) or 4). As is well-known in the art, interface icons such as buttons may be selected with a simple, "tap", mouse-down/mouse-up "single click", or similar actions that involve a press and release. As seen in Fig. 1 of Clark, the icons 54 may be said to be analogous to menu buttons commonly found in application toolbars that require only a single click to activate. As Chew teaches the display of a message related to an icon by "keeping the physical object at the designated area longer than [a] selected time", including the mouse-down/mouse-up selection of Clark would enable one to then select a designated interface icon and carry out the related command.

In response to Appellant's arguments of pages 12-13, that Chew and Clark cannot teach the "termination of message" found in step 5 of the claims, the examiner respectfully disagrees. As Appellant notes, Chew at col. 4, lines 7-9 discloses, "[t]he user can dismiss the context menu without making a selection. Under one embodiment, this is done by touching the stylus outside the context menu." The examiner has noted that Chew does not explicitly teach 5) as claimed, but instead notes that as Chew also teaches a "move" gesture wherein the user drags the stylus outside of the context menu (col. 6, lines 48-51), it would have been obvious to utilize this "move" gesture with any command related to a context menu, such as the closing of the context menu. In doing so, activation of the "move" gesture to dismiss the context menu would indeed teach step 5 as claimed.

In regards to Appellant's arguments of claims 3, 9 and 15, on pages 14-16 of the Brief, the examiner respectfully disagrees. The examiner believes that Chew and Clark adequately teach step 5 of claim 1, as disclosed in the rejection above and further in the above arguments. As to step 6, if step 5 is completed, all that is required is the removal of the physical object from the screen (i.e. stylus up event). Regardless of the consequences of such an action, Chew

teaches removing the stylus from the physical interface. Therefore, the requirements for 6) are satisfied. With respect to step 7, the examiner contends that the "moving of the physical object to a further designated area after step 5 for causing the electronic device to provide a message associated with the further designated area" is similar to steps 1 and 3 of claim 1. As Chew and Clark have been shown to teach such steps, the examiner believes ample support exists in the rejection, and that the argument is moot.

The arguments of claims 7 and 13 on page 14 and of claims 4-6 and 10-12 of page 16 rely on the arguments of the independent claims, specifically independent claim 1. As those arguments have been responded to, the examiner believes the arguments of claims 7 and 13 on page 14 and of claims 4-6 and 10-12 of page 16 to be similarly responded to.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

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For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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